

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

ADRIAN MALDONADO,

Petitioner,

v.

9:07-CV-252  
(LEK/VEB)

T.R. CRAIG, Warden,

Respondent.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on November 3, 2008 by the Honorable Victor E. Bianchini, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. Report-Rec. (Dkt. No. 7). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Petitioner Adrian Maldonado, which were filed on November 20, 2008. Objections (Dkt. No. 8).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” *Id.* This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation should be approved for the reasons stated therein. This Court also finds no merit to the Petitioner’s

argument<sup>1</sup> that the Report-Recommendation should not be approved in light of the Second Circuit's recent decision in United States v. Darden, 539 F.3d 116 (2d Cir. 2008).

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 7) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

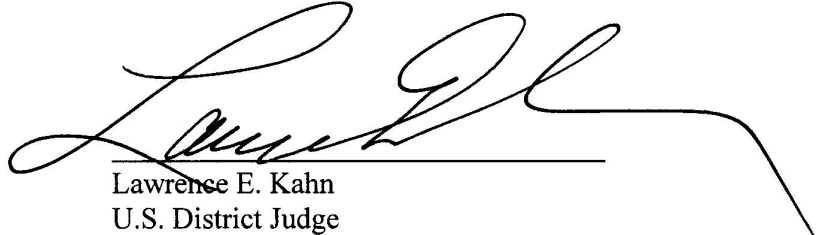
**ORDERED**, that Maldonado's Petition for a writ of habeas corpus (Dkt. No. 1) is **DENIED** and **DISMISSED in its entirety**; and it is further

**ORDERED**, that no Certificate of Appealability shall issue with regard to any of Petitioner's claims; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: December 16, 2008  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge

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<sup>1</sup> The Court has considered this argument, even though it was not presented to the Magistrate Judge in the first instance, because Darden was not decided until August 15, 2008, more than a year after the filing of the Petition in this case.